OD –4

ORDER SHEET
WPO/1163/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

ARUN CHAUDHURY
VS
UNION OF INDIA AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 20th June, 2023.

Appearance:
Mr. A.K. Upadhyay, Adv.
Mrs. Shobha Upadhyay, Adv.
...For the Petitioner
Mr. Om Narayan Rai, Adv.
Mr. Prithu Dudhoria, Adv.
...For the Respondents

The Court: Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 29th July, 2022 under Section 148A(d) of the Income Tax Act, 1961 relating to assessment year 2015-16 by filing this writ petition on 16th May, 2023 that almost expiry of 10 months after the order under Section 148A(d) of the Act. During the pendency of the writ petition further development has been taken place that order under Section 147 of the Act has already been passed on 27th May, 2023 which is appealable order containing detail reasoning and discussion and the same was passed by fully observing procedural formalities by issuing notice under Section 148 of the Act, 142(1), 142(2) of the Act after issuance of order under Section 148A(d) of the Act. If petitioner is at all aggrieved by the reasoning and finding which is based on evidence and investigation, remedy is available to the petitioner to file appeal before the CIT (Appeals) under the statute and this Writ Court at this stage after passing of the order under Section 147 of the Act refrains from exercising its jurisdiction under Article 226 of the Constitution of India by not re-appreciating the findings and evidence on the basis of which assessment order under Section 147 of the Act has been passed. Accordingly, this writ petition being WPO 1163 of 2023 is dismissed.

Dismissal of this writ petition will not have any bearing in considering and disposal of the appeal if petitioner files appeal against the impugned order under Section 147 of the Act.

If the appeal is filed by the petitioner against the aforesaid impugned order under Section 147 of the Act within fifteen days from date, the Appellate Authority shall consider and dispose of the appeal on merit without insisting on the issue of limitation.

(MD. NIZAMUDDIN, J.)

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